IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

WP(C).No. 36345 of 2004(B)

PETITIONER:

M/S.SHRIRAM NVESTMENTS LTD., A BODY CORPORATE HAVING ITS REGD.OFFICE AT 123 ANGAPPA NAICHEN STREET, CHENNAI & BREACHES AMONG OTHER PLACES AT 4TH FLOOR CAPITAL CENTRE, TVM.,REP.BY ITS PROCEEDINGS,BY ITS BRANCH MANAGER,TRIVANDRUM. BRANCH & P.A.HOLDER, BINO THOMAS, S/O. N.K.THOMAS.

BY ADV. SRI.R.S.KALKURA

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE SECRETARY, TRANSPORT DEPARTMENT, GOVERNMENT OF KERALA, SECRETARIAT, TRIVANDRUM.

2. REGIONAL TRANSPORT OFFICER, NEDUMANGAD, TRIVANDRUM.

3. TAHASILDAR, REVENUE RECOVERY, TRIVANDRUM.

4. RAMAKRISHNAN S/O. MANNAN PERUMAL, PARAKONATHU PUTHENVEEDU (RAJ BHAVAN), ASARI PARAMBU, NEDUMANGADU, TRIVANDRUM.

R1 TO R3 BY GOVERNMENT PLEADER SRI. T.B. RAMANI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE POWER OF ATTORNEY EXECUTED BY THE COMPANY IN FAVOUR OF THE BRANCH MANAGER.

EXT.P2 TRUE COPY OF THE PROPOSAL FORM SUBMITTED BY THE FOURTH RESPONDENT.

EXT.P3 TRUE COPY OF THE SCHEDULE OF REPAYMENT IN RESPECT OF THE VEHICLE.

EXT.P4 TRUE COPY OF THE POSTAL ACKNOWLEDGEMENT INDICATING RECEIPT OF G FORM DATED 7.1.1998

EXT.P5 TRUE COPY OF THE POSTAL ACKNOWLEDGEMENT INDICATING RECEIPT OF G FORM DATED 16.4.1998

EXT.P6 TRUE COPY OF THE POSTAL ACKNOWLEDGEMENT INDICATING RECEIPT OF G FORM DATED 5.7.1998

EXT.P7 TRUE COPY OF THE G FORM SUBMITTED BY THE PETITIONER DATED 6.1.1998

EXT.P8 TRUE COPY OF THE G FORM SUBMITTED BY THE PETITIONER DATED 6.4.1998

EXT.P9 TRUE COPY OF THE G FORM SUBMITTED BY THE PETITIONER DATED 5.7.1998

EXT.P10 TRUE COPY OF THE LETTER DATED 14.7.1998

EXT.P11 TRUE COPY OF THE RECEIPT ISSUED BY THE PURCHASER A SOKAN

EXT.P 12 TRUE COPY OF THE ENGLISH TRANSALATION OF EXT.P11

EXT.P13 TRUE COPY OF THE LETTER DATED 3.4.2000

EXT.P14 TRUE COPY OF THE REPLYDATED 17.4.2000 ISSUED BY THE PETITIONER TO THE OFFICE OF THE 2ND RESPONDENT.

EXT.P15 TRUE COPY OF THE NOTICE DATED 18.7.2000 ISSUED BY THE OFFICE OF THE 2ND RESPONDENT.

EXT.P16 TRUE COPY OF THE REPLY DATED 1.8.2000

EXT.P17 TRUE COPY OF THE DEMAND NOTICE DATED 28.10.2004

EXT.P18 TRUE COPY OF THE ATTACHMENT NOTICE DATED 28.10.2004

EXT.P19 TRUE COPY OF THE LETTER DATED 1.12.2004 ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT.

EXT.P20 TRUE COPY OF THE LETTER DATED 9.7.1998

EXT.P21 TRUE COPY OF THE RC PARTICULARS ISSUED BY THE REGISTERING AUTHORITY IN RESPECT OF VEHICLE NO. KL-01/D-7783 DATED 9.12.2004

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

W.P.C. NO. 36345 OF 2004

Dated this the 29th day of November, 2007

JUDGMENT

Heard counsel for the petitioner and Government Pleader. Petitioner is challenging recovery proceedings for recovery of arrears of motor vehicle tax due in respect of contract carriage bearing registration No. KL-01-D 7783 for the period commencing from 1.7.1997 to 31.3.2000. According to the petitioner, petitioner was only a financier who has not operated the vehicle during any time. However, it is admitted that vehicle was repossessed by the financier on 8.12.1997 and the vehicle was sold on 30.6.1999. Since petitioner was admittedly in possession and control of the vehicle, tax except for the period for which exemption is granted could be recovered from the petitioner as per section 3(2) of the Motor Vehicle Taxation Act. in the counter affidavit , it is seen that petitioner is entitled to exemption for two quarters ending on 31.3.1998 and 30.9.1998. So far as tax for the quarter ending on 30.6.1998 is concerned, application filed by the petitioner was rejected on account of one week's delay in filing the

same. I do not think tax could be recovered for this period because during the previous quarter as well as subsequent quarter exemption was granted to the petitioner and even for this quarter, department has no case that the petitioner has used the vehicle or could have used the vehicle and G Form was also submitted though with one week's delay. In the circumstances, I hold that petitioner is not liable to pay tax for the three quarters ending on 31.3.1998, 30.6.1998 and 30.9.1998. Since petitioner admittedly sold the vehicle on 30.6.1999, and the petitioner has not furnished any G form, petitioner is liable to pay tax from 1.10.1998 to 30.6.1999. So far as the demand from 1.9.1997 is concerned, I do not think petitioner can be called upon to clear the arrears of motor vehicle tax until the vehicle was repossessed on 8.12.1997. The registered owner is principally liable for payment of motor vehicle tax as provided under Section 3(2) of the Act more so because vehicle was in possession and control of the registered owner. Since recovery of tax can be made from the petitioner only after the petitioner repossessed the vehicle, recovery of motor vehicle tax could be made from the petitioner from 1.12.1997 to 30.6.1999 except for the

three quarters for which exemption is available, as found above. So far as arrears of motor vehicle tax for the remaining period is concerned, it is for the respondents to proceed against respective registered owners of the vehicle.

W.P. is disposed of as above.

(C.N. RAMACHANDRAN NAIR)
Judge